

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5617 OF 2025**

Pradeep Madhukar Shroff ... Petitioner
versus
M/s. Datta Prasad Agencies and Ors. ... Respondents

Mr. Vivyesh K. Jain, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 30 APRIL 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The impugned order dated 28 January 2025 indicates that the record and proceeding of Special Civil Suit No.263 of 1999 is attached to the Execution Proceeding No.46 of 2007. The said record would better equip the Court in deciding the application for condonation of delay in setting aside the ex-parte decree passed in SCS No.263 of 1999.
3. Whether the said record would bear upon the issue of condonation of delay as such when the case of the Petitioner is that the Petitioner was not duly served with the suit summons, can be better ascertained by the Court upon the perusal of the said record.
4. Thus, having regard to the nature of the order passed by the learned Civil Judge, this Court does not consider it necessary to issue notice to the Respondents and instead request the learned Civil Judge to decide the

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application (Exh.58) afresh in the light of the aforesaid tentative view of this Court.

5. Hence, the impugned order is set aside.
6. The application (Exh.58) is remitted back to the Court of Addl. Judge, Small Causes Court, Pune, for afresh decision.
7. The Writ Petition stands disposed.

(N.J.JAMADAR, J.)